

BEFORE THE  
DEPARTMENT OF TRANSPORTATION  
WASHINGTON, D.C.

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2022 U.S.-SOUTH AFRICA COMBINATION : Docket DOT-OST-2022-0050  
FREQUENCY ALLOCATION PROCEEDING :  
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MOTION OF UNITED AIRLINES, INC.  
TO WITHHOLD INFORMATION  
FROM PUBLIC DISCLOSURE

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Jun. 1, 2022

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United Airlines, Inc

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United<sup>1</sup> moves, pursuant to Rule 12 of the Department’s Rules of Practice (14 C.F.R. §302.12), for confidential treatment of certain information (the “Restricted Information”) contained in the Reply of United. The confidential version of the Reply for which United requests confidential treatment has been submitted to the Department by e-mail. United respectfully requests that the Restricted Information submitted be treated pursuant to the Department’s policies for Restricted Data according to those present or future regulations pertaining to such Data.

United states as follows in support of this motion:

1. The Reply contains certain information and exhibits that contain Restricted Information as classified by the Department of Transportation Bureau of Transportation Statistics. This information is contained in Section 2. E. of the Reply and Exhibit UA-R112. The Department has determined and set out a policy to prevent public disclosure of this information in 14 C.F.R. 241.19-7.

2. The Restricted Information is being disclosed to the Department in United’s Reply

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<sup>1</sup> Common names are used for airlines.


in the 2022 U.S. – South Africa Combination Frequency Allocation Proceeding. A prior submission in the proceeding by another party included references to Restricted Data. To respond to this submission, United refers to the same Restricted Data. United has signed a certification with the Department’s Office of Airline Information not to disclose this Restricted Data.

3. The Restricted Information is protected from public disclosure under various exemptions to the Freedom of Information Act, including 5 U.S.C. §§552(b)(3) and (b)(4). Exemption 4 protects from public disclosure information that is "(1) commercial or financial, (2) obtained from a person outside the government, and (3) privileged or confidential." *Gulf & Western Indus., Inc. v. United States*, 615 F.2d 527, 529 (D.C. Cir. 1979) (*citations omitted*). The Confidential Information satisfies this standard. Public disclosure of such information not only would inflict substantial competitive harm on the carriers but also could "impair the Government's ability to obtain necessary information in the future...." *Nat'l Parks & Conservation Ass'n v. Kleppe*, 547 F.2d 673, 677-78 (D.C. Cir. 1976) (*quoting Nat'l Parks & Conservation Ass'n v. Morton*, 498 F.2d 765, 765-70 (D.C. Cir. 1974)).

4. In addition, the Restricted Information is protected from disclosure by Exemption 3, which pertains to information specifically protected from disclosure by another federal statute, such as 49 U.S.C. § 40115. That statute requires the Department to withhold information that would "have an adverse effect on the competitive position of an air carrier in foreign air transportation." The Department has determined pursuant to 14 C.F.R. 241.19-7 that public disclosure of this information could have “damaging competitive impact on U.S. carriers” and an “adverse effect upon the public interest.”

WHEREFORE, United respectfully requests that the Restricted Information contained in United's Reply be withheld from public disclosure pursuant to the Department's policies and regulations regarding this information.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Amna Arshad', is positioned above a horizontal line.

Amna Arshad  
Benjamin Sanchez

Freshfields Bruckhaus  
Deringer LLP

Counsel for  
United Airlines, Inc.

Jun. 1, 2022

## **CERTIFICATE OF SERVICE**

I certify that I have this date served the foregoing document on the following persons by causing a copy to be sent electronically in accordance with the Department's Rules of Practice:

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Amna Arshad

Jun. 1, 2022